IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 732 OF 1996

Smt. Aminabai widow of
Gaibu Shaikh & 5 ors. ..Appellants

versus

Yashwant B. Mandhave & 2 ors ..Respondents

Mr. V. N. Tayade for the Appellants.
None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 22ND MARCH,2005

ORAL ORDER :

1. Heard counsel for the Appellants. Nobody is present for the Respondents.

2. The Appellants are the original claimants they filed claim petition claiming compensation at Rs.1,00,000/-. They are widow, sons and daughters of the deceased Gaibu Shaikh, who was tailor by profession. Accident occurred on 15.6.1988 at 10.45 p.m.. He was sitting on stool in front of his shop i.e. tailoring shop and talking with Baban Sakharam Gaikwad, one Matador Tempo No. MWT-8711 was being

driven by the respondent No.1 Yashwant dashed against him causing multiple fractures and head injury. He died on 17.5.1988. Vehicle was owned by the Respondent No.2. In this background, the claim petition came to be filed, the Tribunal awarded only Rs.70,000/- and therefore this Appeal for enhancement.

3. While fixing the quantum, the Tribunal considered that the income of the deceased Gaibu Shaikh was Rs.900/- per month, dependency was Rs.600/- per month i.e. 1/3rd was deducted for personal expenses and multiplier of 8 was applied.

4. According to the appellants the Tribunal committed mistake on both the counts. Firstly, not fixing the income properly and multiplier of 8, is wrongly applied.

5. I find considerable force in the submissions, the age of Gaibu Shaikh was 55 years. According to the applicants the income of deceased per month was Rs.1,500/- per month. However, looking to the age and business of the deceased, I fix the income of the deceased at Rs.1,200/- per month, out of that Rs.300/- to be deducted for personal expenses and multiplier of 10 is proper. Therefore the amount of compensation comes to Rs.900

x 12 x 10 it comes to Rs.1,08,000/-, then nothing is awarded towards loss of consortium, Rs.20,000/- are required to be awarded on that count + Rs.2,400/- for funeral expenses, the total amount comes to Rs.1,08,000/- + Rs.20,000/- + Rs.2,400/- = Rs.1,30,400/-. Therefore, following order :

ORDER :

. Appeal is partly allowed.

. Order of granting compensation at Rs.70,000/- is modified. Opponents No. 2 and 3 will jointly and severally to pay to the Claimants an amount of Rs.1,30,400/-, with costs.

22.03.2005 (D.G. DESHPANDE, J.)